

SENATE AMENDMENTS TO SENATE BILL 95

By COMMITTEE ON HUMAN SERVICES

March 24

1 On page 1 of the printed bill, line 2, after “abuse” insert “; creating new provisions; and
2 amending ORS 59.991”.

3 Delete lines 4 through 27 and delete pages 2 and 3 and insert:

4 **“SECTION 1. Sections 2 to 7 of this 2017 Act are added to and made a part of ORS 59.005
5 to 59.451.**

6 **“SECTION 2. As used in sections 2 to 7 of this 2017 Act:**

7 **“(1) ‘Financial exploitation’ has the meaning given that term in ORS 124.050.**

8 **“(2) ‘Financial institution’ has the meaning given that term in ORS 706.008.**

9 **“(3) ‘Qualified individual’ means an individual who is:**

10 **“(a) A salesperson;**

11 **“(b) An investment adviser representative; or**

12 **“(c) A person who serves in a supervisory, compliance or legal capacity for a broker-
13 dealer or state investment adviser, or who is otherwise identified in the written supervisory
14 procedures of a broker-dealer or state investment adviser.**

15 **“(4) ‘Trust company’ has the meaning given that term in ORS 706.008.**

16 **“(5) ‘Vulnerable person’ has the meaning given that term in ORS 124.100.**

17 **“SECTION 3. (1) Except as provided in subsection (4) of this section, a qualified individual
18 who has reasonable cause to believe that financial exploitation of a vulnerable person with
19 whom the qualified individual comes into contact has occurred, has been attempted or is
20 being attempted shall immediately notify, orally or in writing, the Department of Consumer
21 and Business Services.**

22 **“(2) A notification made under subsection (1) of this section must include the following
23 information, if known:**

24 **“(a) The identity and address of the vulnerable person;**

25 **“(b) The identity of all persons that the qualified individual believes are responsible for
26 the suspected or attempted financial exploitation; and**

27 **“(c) The nature and extent of the suspected or attempted financial exploitation.**

28 **“(3) Upon receipt of a notification under subsection (1) of this section, the department
29 shall:**

30 **“(a) Immediately forward the notification to the Department of Human Services;**

31 **“(b) If it reasonably appears that a violation of the Oregon Securities Law or rules
32 adopted thereunder has occurred or is occurring, promptly investigate the suspected or at-
33 tempted financial exploitation; and**

34 **“(c) If it reasonably appears that a crime has been committed or attempted, promptly
35 notify a law enforcement agency.**

1 “(4) Subsection (1) of this section does not apply to a qualified individual who is employed
2 by a financial institution or trust company.

3 “**SECTION 4.** (1) If a qualified individual has reasonable cause to believe that financial
4 exploitation of a vulnerable person with whom the qualified individual comes into contact has
5 occurred, has been attempted or is being attempted, the qualified individual may notify any
6 third party who was previously designated by the vulnerable person to receive information
7 from the qualified individual regarding the vulnerable person, or whom the qualified individ-
8 ual is otherwise permitted to notify under state or federal law or customer agreement.

9 “(2) Disclosure may not be made under this section to any third party that is suspected
10 of actual or attempted financial exploitation or other abuse of the vulnerable person.

11 “**SECTION 5.** (1) A broker-dealer or state investment adviser may delay a disbursement
12 from an account of a vulnerable person or an account on which a vulnerable person is a
13 beneficiary if:

14 “(a) The broker-dealer, the state investment adviser or a qualified individual reasonably
15 believes that the requested disbursement might result in financial exploitation of a vulner-
16 able person; and

17 “(b) The broker-dealer or state investment adviser:

18 “(A) Within two business days of the request for disbursement, provides written notifi-
19 cation of the delay and the reason for the delay to all parties authorized to transact business
20 on the account, except to any party that is suspected to have engaged in actual or attempted
21 financial exploitation of the vulnerable person;

22 “(B) Within two business days of the request for disbursement, notifies the Department
23 of Consumer and Business Services and the Department of Human Services of the delay and
24 the reason for the delay; and

25 “(C) Conducts an internal review of the suspected financial exploitation and reports the
26 results of the review to the Department of Consumer and Business Services and the De-
27 partment of Human Services.

28 “(2) A delay of a disbursement under this section may not extend beyond the earlier of:

29 “(a) Fifteen business days after the date on which the broker-dealer or state investment
30 adviser first delayed disbursement of the funds; or

31 “(b) The date on which a determination is made by the broker-dealer or state investment
32 adviser that the disbursement will not result in financial exploitation of the vulnerable per-
33 son.

34 “(3) Notwithstanding subsection (2) of this section, upon request of the Department of
35 Consumer and Business Services, a delay of a disbursement under this section may extend
36 beyond 15 business days after the date on which the broker-dealer or state investment ad-
37 viser first delayed disbursement of the funds, but not beyond the earliest of:

38 “(a) Twenty-five business days after the date on which the broker-dealer or state in-
39 vestment adviser first delayed disbursement of the funds;

40 “(b) The date on which an order terminating the delay is entered by a court of competent
41 jurisdiction; or

42 “(c) The date on which the department issues an order terminating the delay.

43 “(4) The department or a broker-dealer or state investment adviser that initiated a delay
44 of a disbursement under this section may petition a court of competent jurisdiction for an
45 order delaying or enjoining a disbursement of funds or for other protective relief on the

1 grounds that financial exploitation of a vulnerable person is otherwise likely to occur.

2 **“SECTION 6. Qualified individuals, broker-dealers and state investment advisers are not**
3 **liable under state law for the following actions, if performed in good faith, with reasonable**
4 **cause and with the exercise of reasonable care:**

5 **“(1) Disclosing information under section 3, 4 or 7 of this 2017 Act;**

6 **“(2) Failing to notify a vulnerable person of a disclosure of information under section 3,**
7 **4 or 7 of this 2017 Act; or**

8 **“(3) Delaying a disbursement under section 5 of this 2017 Act.**

9 **“SECTION 7. (1) Upon request of the Department of Consumer and Business Services,**
10 **the Department of Human Services or a law enforcement agency, a broker-dealer or state**
11 **investment adviser shall provide copies of records related to any suspected financial exploi-**
12 **tation of a vulnerable person to the requester. The records may include historical records**
13 **if relevant to suspected financial exploitation of a vulnerable person.**

14 **“(2) A record made available to an agency under this section is not a public record for**
15 **purposes of ORS 192.410 to 192.505.**

16 **“(3) Nothing in this section limits the authority of the Department of Consumer and**
17 **Business Services to access or examine the books and records of broker-dealers and state**
18 **investment advisers as otherwise provided by law.**

19 **“SECTION 8. ORS 59.991 is amended to read:**

20 **“59.991. (1) Except as provided in [subsection (3)] subsections (3) and (4) of this section, vio-**
21 **lation of any provision of ORS 59.005 to 59.451, 59.710 to 59.830, 59.991 and 59.995 or any rule**
22 **adopted by the Director of the Department of Consumer and Business Services under ORS 59.005 to**
23 **59.451, 59.710 to 59.830, 59.991 and 59.995, except ORS 59.315 (2) or 59.810, is a Class B felony.**

24 **“(2) Violation of ORS 59.315 (2) or 59.810 is a Class A misdemeanor.**

25 **“(3) This section does not apply to a failure to file a notice and pay a fee under ORS 59.049 (1),**
26 **(2) or (3), nor to a failure to file a notice and pay a fee pursuant to ORS 59.165 (7), nor to a failure**
27 **to pay a fee pursuant to ORS 59.175 (8), nor to a violation of any rule adopted by the director under**
28 **ORS 59.049 (1), (2) or (3), 59.165 (7) or 59.175 (8).**

29 **“(4) Notwithstanding subsection (1) of this section, violation of section 3 of this 2017 Act**
30 **or of any rule adopted by the director for administration of sections 2 to 7 of this 2017 Act**
31 **is a Class A violation.”.**